

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

**THE MEDICAL CENTER OF
SOUTHEAST TEXAS, L.P. D/B/A
MEDICAL CENTER OF
SOUTHEAST TEXAS, SOUTHWEST
GENERAL HOSPITAL, L.P. D/B/A
SOUTHWEST GENERAL
HOSPITAL,**

Plaintiffs,

V.

AETNA HEALTH INC.,

Defendant.

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CIVIL ACTION NO. 1:16-cv-390

NOTICE OF REMOVAL OF CIVIL ACTION

Aetna Life Insurance Company (“ALIC” or “Aetna”), improperly named as Aetna Health Inc. (“AHI”), files this Notice of Removal of Civil Action brought by Plaintiffs The Medical Center of Southeast Texas, L.P. d/b/a Medical Center of Southeast Texas and Southwest General Hospital, L.P. d/b/a Southwest General Hospital (“Plaintiffs” or “Hospitals”). The grounds in support of this Notice of Removal are as follows:

1. **Procedural Background.** Plaintiffs filed their Original Petition (the “Complaint”) against ALIC on August 5, 2016, in the 60th Judicial District Court of Jefferson County, Texas, under Cause No. 198818 (the “State Court Action”). A true and correct copy of the State Court Docket Sheet is attached hereto as Exhibit A. A true and correct copy of Plaintiffs’ Complaint is attached hereto as Exhibit B.

2. ALIC received a copy of the Complaint on August 12, 2016. A true and correct copy of the citation received by ALIC is attached hereto as Exhibit C. To avoid entry of a default

judgment and to preserve defenses, a Motion to Transfer Venue and Original Answer Subject Thereto was filed in the State Court Action on September 2, 2016. A true and correct copy of Aetna's Motion to Transfer Venue and Original Answer Subject Thereto is attached hereto as Exhibit D.

3. **This Notice is Timely Pursuant to 28 U.S.C. § 1446(b).** This Notice of Removal of Civil Action is being removed prior to the expiration of the statutorily allowed thirty (30) day period after the date the defendant was served with or otherwise received a copy of the Complaint.

4. **Complete Diversity of Citizenship Confers Jurisdiction.** The State Court Action may be removed to this Court because it is one involving a controversy wholly between citizens of different states, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. Therefore, this is a civil action in which the district courts of the United States have original diversity jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court pursuant to 28 U.S.C. § 1441(a) and (b).

5. Specifically, Plaintiffs assert that they are Texas-based limited partnerships that are subsidiaries of IASIS Healthcare Corporation. Based on information and belief, Plaintiffs' members were incorporated in the State of Delaware and had their principal place of business in the State of Tennessee.

6. AHI, a Texas corporation, has been improperly joined to this action because there is no possibility under law that Plaintiffs can recover against AHI. Plaintiffs assert that they were "out-of-network providers" and that Aetna allegedly "underpaid or failed to pay the Hospitals" for certain medical claims submitted under certain health benefit plans.¹ AHI has been

¹ See Exhibit B, at p. 8, ¶ 34.

improperly joined because it does not administer, pay, insure, or otherwise fund the health benefit plans at issue in this lawsuit. As such, there is no possible cause of action under state law or otherwise that will allow Plaintiffs to recover against AHI on their pleaded claims. AHI's citizenship may thus be ignored in determining removal jurisdiction.

7. ALIC, the entity that insures and administers the medical claims at issue, is a corporation that was incorporated in the State of Connecticut and had its principal place of business in the State of Connecticut at the time the State Court Action was filed. As of the date of filing of this Notice of Removal, ALIC continues to be incorporated in and have its principal place of business in the State of Connecticut. ALIC did not have its principal place of business in the State of Delaware or Tennessee and was not incorporated in the State of Delaware or Tennessee at the time of filing of the State Court Action or at the time of filing of the Notice of Removal.

8. Furthermore, the amount in controversy in this action exceeds the sum of \$75,000.00, exclusive of interest and costs. Plaintiffs' Complaint alleges that Plaintiffs are owed actual damages in the amount of \$1.7 million,² in addition to statutory penalties and declaratory relief that will confer a benefit in excess of \$75,000, more likely than not. Therefore it is facially apparent, or more likely than not, that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

9. **Notice Filed in the State Court.** Promptly after filing this Notice of Removal, ALIC will provide written notice of removal to Plaintiffs and will file a copy of this Notice of Removal with the Clerk for the District Court of Jefferson County, Texas, as provided by law.³

² See, e.g., Exhibit B, p.12 at ¶ 57.

³ A true and correct copy of the Notice being filed with the 60th Judicial District Court of Jefferson County, Texas is attached hereto as Exhibit E.

WHEREFORE, Aetna prays that the State Court Action be removed to the United States District Court for the Eastern District of Texas, Beaumont Division.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served on the following attorneys of record by United States certified mail, return receipt requested, on September 9, 2016:

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